STATEMENT OF THE

NATIONAL BORDER PATROL COUNCIL

OF THE

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

AFL-CIO

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CLAIMS

COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

H.R. 98, THE "ILLEGAL IMMIGRATION ENFORCEMENT
AND SOCIAL SECURITY PROTECTION ACT OF 2005"

PRESENTED BY

T.J. BONNER

NATIONAL PRESIDENT

MAY 12, 2005

The National Border Patrol Council, representing 10,000 front-line Border Patrol employees, thanks the Subcommittee for holding a hearing concerning H.R. 98, the "Illegal Immigration Enforcement and Social Security Protection Act of 2005." Those of us who are tasked with enforcing our Nation's immigration laws believe that this legislative proposal contains the key to securing our borders. Therefore, the National Border Patrol Council unequivocally supports this landmark legislation.

The tragic events of September 11, 2001 painfully underscored our Nation's vulnerability. Nowhere is this vulnerability more evident than at our borders. Every year, millions of people successfully cross our Nation's borders illegally. While the overwhelming majority of these people do not pose a security threat, the few that do can infiltrate our borders just as easily as everyone else. This situation is untenable, and must be addressed immediately.

Even if Congress were to exponentially increase the size of the Border Patrol tomorrow, our borders would remain out of control. The attraction of jobs in the United States that pay ten to fifty times more than can be earned in a person's native land is a much more powerful force than the deterrence factor of a few thousand Border Patrol agents who can do nothing more than send people back across the border to try again until they succeed. The only way to solve this problem is to address the root cause of illegal immigration. Ninety-eight percent of those who cross our borders illegally do so in search of employment opportunities in the United States. As long as illegal aliens are able to find jobs, they will continue to cross our borders. As long as the Border Patrol is overwhelmed by millions of illegal aliens crossing our borders annually in search of work, it will be unable to focus its enforcement efforts on stopping terrorists and criminals from entering our country.

The Immigration Reform and Control Act of 1986 recognized this problem and attempted to solve it by prohibiting the employment of illegal aliens. Although the concept was sound, the program was unsuccessful for two main reasons. First, it allowed workers to establish their eligibility to work in this country by presenting one or two out of a variety of documents, all of which could easily be counterfeited. Second, it placed the burden of determining the authenticity of such documents on the employer. Given this flawed structure, it is no wonder that the program failed.

In its interim report in 1994, the U.S. Commission on Immigration Reform made the following findings and recommendations about worksite enforcement:

> The Commission believes that reducing the employment magnet is the linchpin of a comprehensive strategy to reduce illegal immigration. The ineffectiveness of employer sanctions, prevalence of fraudulent documents, and continued high numbers of unauthorized workers, combined with confusion for employers and reported discrimination against employees, have challenged the credibility of current worksite enforcement efforts.
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> A better system for verifying work authorization is central to the effective enforcement of employer sanctions.
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> *The Commission recommends development and implementation of a simpler, more fraud-resistant system for verifying work authorization.* The current system is doubly flawed: it is too susceptible to fraud, particularly through the counterfeiting of documents; and it can lead to increased discrimination against foreign-looking or foreign-sounding authorized workers.
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> In examining the options for improving verification, the Commission believes that the most promising option for secure, nondiscriminatory verification is a computerized registry using data provided by the Social Security Administration [SSA] and the INS.
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> The key to this process is the social security number. For decades, all workers have been required to provide employers with their social security number. The computer registry would add only one step to this existing requirement: an employer check that the social security number is valid and has been issued to someone authorized to work in the United States.
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> The Commission believes the computerized system is the most promising option because it holds great potential for accomplishing the following:
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> • Reduction in the potential for fraud. Using a computerized registry, rather than only an identification card, guards against counterfeiting of documents. It provides more reliable information about work authorization.
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> • Reduction in the potential for discrimination based on national origin and citizenship status, as well as inappropriate demands for specific or additional documents, given that employers will not be required to ascertain whether a worker is a citizen or an immigrant and will have no reason to reject documents they believe to be counterfeit. The only relevant question will be: "What is your social security number?"

• Reduction in the time, resources, and paperwork spent by employers in complying with the Immigration Reform and Control Act of 1986 [IRCA] and corresponding redirection of enforcement activities from paperwork violations to knowing hire of unauthorized workers.[1]

The Commission reiterated these findings and recommendations in its final report in 1997. Although there was no discussion about making the cards themselves counterfeit-proof, it must be remembered that these reports were issued several years before the September 11, 2001 terrorist attacks, and also that identity theft was not nearly as prevalent then as it is now. Moreover, the magnitude of the Social Security fraud problem was not fully understood at that time either. On September 19, 2002, the Inspector General of the Social Security Administration stated the following at a joint hearing before the Subcommittee on Social Security and this Subcommittee:

> In calendar year 2000 alone, SSA issued approximately 1.2 million SSNs to non-citizens, out of some 5.5 million SSNs issued in all. A recently conducted Office of Inspector General (OIG) study indicates that 8 percent (about 96,000) of those 1.2 million SSNs were based on invalid immigration documents, which SSA processes did not detect. We have no way of determining how many SSNs have been improperly assigned to non-citizens.[2]

It is clear that a counterfeit-proof document is necessary in order to address these rapidly proliferating problems and ensure the integrity of an employment verification system that utilizes the Social Security number.

An effective employment verification system must contain the following elements:

•   It must ensure that only those who are entitled to have a Social Security card receive one. It would be absolutely worthless to devise technology that foils counterfeiters if ineligible people could nonetheless obtain the document.

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[1] Interim Report of the U.S. Commission on Immigration Reform entitled *U.S. Immigration Policy: Restoring Credibility* (09-30-94), pages xii-xiii of the Executive Summary.

[2] Statement of James G. Huse, Jr., Inspector General of the Social Security Administration, *Homeland Security and the Integrity of the Social Security Number*, September 19, 2002.

- It must also enable employers to quickly and easily verify an applicant's eligibility to work in this country.

- Finally, the penalties for non-compliance must be sufficiently severe to encourage compliance, and the law must be easily enforceable.

The Illegal Immigration Enforcement and Social Security Protection Act of 2005 meets all of these goals, and does so in a non-intrusive manner. The counterfeit-proof Social Security card is not a national identification card and would only have to be presented when applying for a new job.

It is clear that the current one-dimensional enforcement strategy — attempting to set up a blockade along 6,000 miles of border to prevent millions of impoverished people from crossing in search of work, but ignoring almost everyone who escapes that porous dragnet — is extremely ineffective. Until the root cause of illegal immigration is addressed, it will continue unabated. Once the employment magnet is turned off, however, people will soon realize that it is futile to circumvent our immigration laws in hopes of improving their economic lot in life. This would have the added benefit of ending the suffering and death caused by the callous criminal organizations that smuggle human beings.

Although the primary reason for the current mass migration to the United States is economic, its consequences are no longer so limited. Porous borders allow almost anybody or anything to cross, including terrorists, criminals, and weapons of mass destruction. This cannot be tolerated any longer. Enacting H.R. 98 will enable the Border Patrol to focus its limited resources on preventing terrorists, criminals and weapons of mass destruction from entering the United States. The passage of this legislation will do more to secure our borders than any other conceivable measure. If the employment magnet is not deactivated, however, all other measures will ultimately prove useless in securing our borders. The National Border Patrol Council therefore strongly urges the Congress of the United States to act swiftly to pass this legislation for the sake of our Nation's security.